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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,711	02/27/2007	Zaid Jumcan	P120 0043/GSO	3097
720 7590 02/24/2011 OYEN, WIGGS, GREEN & MUTALA LLP 480 - THE STATION 601 WEST CORDOVA STREET VANCOUVER, BC V6B 1G1 CANADA				
EXAMINER BROWN, COURTNEY A				
ART UNIT		PAPER NUMBER		
1617				
NOTIFICATION DATE		DELIVERY MODE		
02/24/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@patentable.com

# Office Action Summary

**Application No.**

10/599,711

**Applicant(s)**

JUMEAN ET AL.

**Examiner**

COURTNEY BROWN

**Art Unit**

1617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-889)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**Claims 1-18 are pending.**

***Restriction***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

**Group I**

Claims 1-4, 17 and 18 drawn to a composition of chemicals for manipulation the behaviour of *Cydia pomonella* larvae.

**Group II**

Claims 1,5-10 and 14, drawn to a composition and method for attracting *Cydia pomonella* larvae.

**Group III**

Claims 1 and 11-13, drawn to a bait and apparatus or matrix for deployment in an area containing fruit or nut crops.

**Group IV**

Claims 1 and 15, drawn to a method of diagnosing whether protection of apple, pear, walnut other fruit or nut crops is warranted, comprising exposing the fruit or nut crop to the composition of claim 1.

#### **Group V**

Claims 1 and 16, drawn to a method of protecting apple, pear, walnut or other fruit or nut crops from attack by *Cydia pomonella* by developing proximate to fruit or nut crops a composition as claimed in claim 1.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature in all groups is a composition of chemicals for manipulation the behaviour of *Cydia pomonella* larvae selected from the group consisting of: 1) heptanal; 2) 6-methyl-5-hepten-2-one (sulcatone); 3) myrcene; 4) octanal; 5) 3-carene; 6) (+)-limonene; 7) (E)-2-octenal; 8) nonanal; 9) (E)-2-nonenal; 10) decanal; 11) geranylacetone. This element does not constitute a special technical feature under PCT Rule 13.2 because the element is shown in prior art. Light et al. (US Patent 6,528,049) teach a method for monitoring and control of codling moth (i.e., *Cydia pomonella*) using myrcene (see Table 9, column 25) . The invention of the instant application lacks a special corresponding technical feature and does not make a contribution to the prior art. Therefore, the claims cannot be said to have unity of invention.

A telephone call was made to Gerald Oyen on February 15, 2011 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

### ***Conclusion***

The claims remain rejected.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR Only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Courtney Brown, whose telephone number is 571-270-3284. The examiner can normally be reached on Monday-Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Fereyoun Sajjadi can be reached on 571-272-3311. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Courtney A. Brown  
Patent Examiner  
Technology Center  
Group Art Unit 1617

/Janet L. Epps-Smith/

Primary Examiner, Art Unit 1633.